

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDTS 14-02 Division of Emergency Management

SPONSOR(S): Economic Development & Tourism Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee		Duncan	West

SUMMARY ANALYSIS

The Proposed Committee Bill (PCB) addresses two issues related to the duties and responsibilities of Florida's Division of Emergency Management (DEM): the special needs registry, which is a tool used to coordinate emergency management resources in order to plan for and respond to the needs of Florida's most vulnerable citizens; and state employees traveling under the Emergency Management Assistance Compact.

Special Needs Registry

Current law requires each local emergency management agency to maintain a registry of persons with special needs located in the jurisdiction of the local agency. The registry, updated annually, must identify those persons in need of assistance and plan for allocating resources to meet the identified needs. However, the law does not identify the information that must be provided, the method or the format by which such information must be collected.

The PCB requires DEM, rather than each local emergency management agency, to maintain a registry of persons with special needs within the state, thus creating a statewide special needs registry. Local emergency management agencies must be granted access to the registry for their respective jurisdictions.

Emergency Management Assistance Compact

In 1996, the Legislature authorized Florida's participation in the Emergency Management Assistance Compact (EMAC), which is governed by part III, chapter 252, F.S., and is an agreement entered into by 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions. The purpose of EMAC is to provide mutual assistance between states entering into the compact in managing an emergency or disaster declared by the governor of the affected state(s).

DEM has received numerous requests through EMAC to assist various states responding to manmade or natural disasters. There are times when DEM employees work in a state in which the travel and meal costs are greater than the rate authorized for reimbursement according to Florida law. Currently, the law does not permit state employees traveling under the EMAC to receive travel reimbursement based on the amount agreed upon by the requesting state and DEM.

The PCB provides that the travel expense reimbursement provisions under s. 112.061, F.S., do not apply to a state employee traveling under EMAC when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

The PCB provides an effective date of July 1, 2014.

The PCB does not have a fiscal impact on state or local government revenues.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb02.EDTS

DATE: 1/9/2014

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Division of Emergency Management

Florida's Division of Emergency Management (DEM) is administratively housed within the Executive Office of the Governor.¹ DEM is responsible for all professional, technical, and administrative support functions necessary to carry out its responsibilities. The Director of DEM is appointed by, and serves at the pleasure of, the Governor and is the head of DEM for all purposes. DEM is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.²

The State Emergency Management Act (Act)³ establishes the powers of DEM. It tasks DEM with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.⁴ The statewide program of emergency management includes, but is not limited to:

- Preparation of a comprehensive statewide emergency management plan.
- Adopting standards and requirements for county emergency management plans.
- Assisting political subdivisions in preparing and maintaining emergency management plans.
- Ascertaining the requirements for equipment and supplies for use in an emergency.
- Instituting statewide public awareness programs.
- Coordinating federal, state, and local emergency management activities in advance of an emergency.
- Using and employing the property, services, and resources within the state in accordance with the Act.⁵

Special Needs Registry

Present Situation

Each local emergency management agency⁶ is required to maintain a registry of persons with special needs located in the jurisdiction of the local agency. The registry, updated annually, must identify those persons in need of assistance and plan for allocating resources to meet the identified needs. However, the law does not identify the information that must be provided or the method by or the format by which such information must be collected. Thus, the method of collecting and maintaining such data varies among local emergency planning agencies.

According to DEM, currently 39,990 persons with special needs are registered with local emergency management agencies. According to the 2012 American Community Survey, which is part of the U.S. Census, 2,460,338 Floridians self-identified as having a disability.⁷

¹ Section 14.2016, F.S. DEM is a separate budget entity, as provided in the General Appropriations Act and is required to prepare and submit a budget amendment in accordance with Ch. 216, F.S. *Id.*

² *Id.*

³ Section 252, F.S.

⁴ Section 252.35(1), F.S.

⁵ Section 252.35, F.S.

⁶ "Local emergency management agency" means an organization created in accordance with ss. 252.31-252.90, F.S., (the State Emergency Management Act and the Florida Emergency Planning and Community Right-to-Know Act) to discharge the emergency management responsibilities and functions of a political subdivision. Section 252.34(5), F.S.

⁷ Email to House Economic Development & Tourism staff from Florida Division of Emergency Management staff. (Jan. 7, 2014).

Home health agencies, hospices, nurse registries, home medical equipment providers, the Department of Children and Family Services, Department of Health, the Agency for Health Care Administration, Department of Education, the Agency for Persons with Disabilities, and the Department of Elderly Affairs are directed to provide registration information to all of their special needs clients and to all persons with special needs who receive services.⁸

The registration program must give persons with special needs the option of preauthorizing emergency response personnel to enter into their homes during search and rescue operations if necessary to assure their safety and welfare following disasters.⁹

DEM is the lead agency responsible for community education and outreach to the public, including special needs clients, regarding registration and special needs shelters and general information regarding shelter stays.¹⁰

Annually, on or before May 31, each electric utility in the state must notify residential customers in its service area of the availability of the registration program available through the local emergency management agency by:

- An initial notification upon the activation of new residential service with the electric utility, followed by one annual notification between January 1 and May 31; or
- Two separate annual notifications between January 1 and May 31.

All records, data, information, correspondence, and communications relating to the registration of persons with special needs are confidential and exempt from the provisions of s. 119.07(1), F.S., except that such information must be available to other emergency response agencies, as determined by the local emergency management director. Local law enforcement agencies must be given complete shelter roster information upon request.¹¹

All appropriate agencies and community-based service providers, including home health care providers, hospices, nurse registries, and home medical equipment providers, are required to assist emergency management agencies by collecting registration information for persons with special needs as part of program intake processes, establishing programs to increase the awareness of the registration process, and educating clients about the procedures that may be necessary for their safety during disasters. Clients of state or federally-funded service programs with physical, mental, cognitive impairment, or sensory disabilities and who are in need of assistance with evacuating or sheltering must register as persons with special needs.¹²

Effect of Proposed Changes

The PCB requires DEM, rather than local emergency management agencies, to maintain a registry of persons with special needs within the state creating a statewide special needs registry. Each local emergency management agency in the state must be granted access to the registry for its respective jurisdiction.

Recently, DEM's Director established the Electronic Special Needs Registry Working Group. The group is tasked with evaluating current systems, determining the information that would be beneficial for collection on the state and local levels. According to DEM, a statewide electronic special needs registry would establish a standardized system for gathering and sharing information, allow for a statewide comprehensive marketing campaign in an effort to increase the number of registrants, and improve the ability of the state and local emergency management agencies to prepare for and respond to the needs of this population.

⁸ Section 252.355(1), F.S.

⁹ *Id.*

¹⁰ Section 252.355(2), F.S.

¹¹ Section 252.355(5), F.S.

¹² Section 252.355(6), F.S.

Emergency Management Assistance Compact (EMAC)

Present Situation

In 1996, a joint resolution of the U.S. Congress granted consent of the Emergency Management Assistance Compact (EMAC).¹³ That same year, Legislature authorized Florida's participation in the EMAC,¹⁴ which is governed by part III, chapter 252, F.S., and is an agreement entered into by 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions. The purpose of EMAC is to provide mutual assistance between states entering into the compact in managing an emergency or disaster declared by the governor of the affected state(s). The emergency may arise from a natural or manmade disaster, technological hazard, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.

The EMAC Process

1. Governor declares a state of emergency due to a natural or man-made disaster/emergency.
2. Affected state assesses resource needs and identifies shortfalls for which assistance will be requested.
3. State requests resources from EMAC member states through the state emergency management agencies.
4. State emergency management personnel and local resource providers work together to identify available resources and estimated mission costs.
5. The requesting and assisting states execute the EMAC Request for Assistance Form, which is called the REQ-A.¹⁵
6. Personnel deploying under EMAC are given a Mission Order Authorization Form which outlines the mission, helpful information, and guidance.
7. Resources are sent to the requesting state from the assisting state.
8. When the mission is completed, resources return to the home state.
9. Deployed personnel provide receipts/records and work with the home state to develop and review reimbursement package(s).
10. Reimbursement package is sent to the requesting state.
11. The requesting state reimburses the assisting state.

A properly executed REQ-A authorizes the EMAC mission and constitutes a contract between two states. Upon accepting resources offered by another EMAC member state, the requesting state is financially obligated to reimburse the assisting states for expenses incurred in performance of the EMAC mission. Self-dispatched resources that deploy without state authorization are not recognized under the EMAC and are not eligible for reimbursement.¹⁶

Reimbursement under EMAC is not dependent upon the receipt of Disaster Relief Funds that are available through the Federal Emergency Management Agency (FEMA) after the president declares a major disaster or emergency. The requesting state may seek funds from FEMA or any other sources but its obligation under EMAC to pay for services rendered are not contingent upon the receipt of federal funds.¹⁷

¹³ Public Law 104-321 – Oct. 19, 1996.

¹⁴ Chapter 96-244, L.O.F.

¹⁵ The REQ-A is the official form used by states to request, offer, and accept assistance through EMAC. It is also the basis for reimbursement. The Emergency Management Assistance Compact, EMAC Overview 9-2011.pptx, Library Documents Docs ID #2646, Slide 35, available at http://www.nemaweb.org/index.php?option=com_pollybrowser&Itemid=201

¹⁶ National Emergency Management Association, Section III. Reimbursement, NEMA Library Documents Doc ID#2492, available at http://www.nemaweb.org/index.php?option=com_pollydoc&format=raw&view=doc&id=2492.

¹⁷ *Id.*

FDEM Deployment under EMAC

DEM has received numerous requests through EMAC to assist various states responding to manmade or natural disasters. There are times when DEM employees work in a state in which the travel and meal costs are greater than the rate authorized by Florida law. Currently, the law does not permit state employees traveling on an EMAC mission to receive travel reimbursement based on the amount agreed upon by the requesting state and DEM. Below is a list of missions in which DEM staff was deployed to provide assistance under EMAC from 2010-2013.¹⁸

MISSION	NUMBER DEPLOYED	LOCATION	EVENT
2013			
Hazard mitigation grant experts	2	Colorado	Flood
Public information specialist to assist with operations JFO	2	Alaska	Flood
State Volunteer Agency Liaison	1	Alaska	Flood
2012			
Law enforcement strike Teams	28	New Jersey	Sandy
Region IV Support Team to assist in staffing EOC.	10	New York	Sandy
Donations Management Coordinator	1	New Jersey	Sandy
Personnel able to support NYC EOC	14	New York	Sandy
Donations Coordinators	1	New York	Sandy
Governor's Office of Volunteerism	1	New Jersey	Sandy
Finance personnel to assist NYS EOC	1	New York	Sandy
Field operations (door to door)	2	New York	Sandy
Request for assistance with mass care/feeding	2	Maryland	Sandy
2011			
Need for mitigation officer	2	Vermont	Irene
Request ESF 6 support	1	New Jersey	Irene
Donations Manager	1	New York	Tropical Storm Lee
Request EOC support team	17	New York	Irene
Mitigation personnel	3	Tennessee	Flood
Cadaver Dog Team	7	Alabama	Tornados
Communication teams	2	Alabama	Tornados
Volunteer donations coordinator	1	Missouri	Tornados
Volunteer donations coordinator	1	Alabama	Tornados
PIO Request	2	Alabama	Tornados
Individual Assistance Personnel	5	Mississippi	Severe weather
2010			
Air Craft Crew Chiefs for oil spill	15	Louisiana	Deep Water Horizon
National Guard	20	Louisiana	Deep Water Horizon

Party State Responsibilities

¹⁸ Florida Division of Emergency Management, Email to House Economic Development & Tourism Subcommittee staff, Dec. 10, 2013. Email on file.

Each party state is directed to compose procedural plans and programs for interstate cooperation in the performance of the required responsibilities.¹⁹ The authorized representative of a party state may request verbally or in writing the assistance of another party state by contacting the authorized representative of that state. Verbal requests must be followed by a written request within 90 days of the verbal request. The provisions of the agreement only apply to requests for assistance made by and to authorized representatives. Requests must provide the following information:²⁰

- A description of the emergency service function for which the support is needed, such as fire services, law enforcement, emergency medical transportation, communications, public works and engineering, building code inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.
- The amount and type of personnel, equipment, materials, and supplies needed, and a reasonable estimate of the length of time the resources will be needed.
- The specific place and time for staging of the assisting party's response and a point of contact at that location.

This provision requires frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the U.S. Government, with free exchange of information, plans, and resource records relating to emergency capabilities.²¹

Reimbursement

A party state that provides aid to another state through an EMAC mission must be reimbursed by the party state receiving the aid for any loss or damage or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the cost incurred in connection with such requests. However, any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states.²²

State Travel Law

It is the Legislature's intent to standardize travel reimbursement rates, procedures, and limitations, with certain justifiable exceptions and exemptions, applicable to all public officers, employees, and authorized persons whose travel is authorized and paid for by a public agency.²³ All travel must be authorized by the head of the agency, or his or her designated representative, from whose funds the travel is paid.²⁴ State law establishes three categories of travel:²⁵

- Class A Travel – Continuous travel of 24 hours or more away from official headquarters.²⁶
- Class B Travel – Continuous travel of less than 24 hours which involves overnight absence from official headquarters
- Class C Travel – Travel for short or day trips where the traveler is not away from his or her official headquarters overnight.

¹⁹ Section 252.924(1), F.S.

²⁰ Section 252.924(2), F.S.

²¹ Section 252.924(3), F.S.

²² Section 252.929, F.S.

²³ Section 112.061(1), F.S.

²⁴ Section 112.061(3), F.S. The funds appropriated to each state agency for travel by state employees must be limited to travel activities that are critical to each state agency's mission. Funds may not be used to pay for travel by state employees to foreign countries, other states, conferences, staff-training activities, or other administrative functions unless the agency head has approved in writing that such activities are critical to the agency's mission. This section does not apply to travel for law enforcement purposes, military purposes, emergency management activities, or public health activities. Section 46, Ch. 2013-41, L.O.F.

²⁵ Section 112.061(k)-(m), F.S.

²⁶ See s. 112.061(4), F.S.

Class A and Class B travel must include any assignment on official business outside of regular office hours and away from regular places of employment when it is considered reasonable and necessary to stay overnight and for which travel expenses are approved.²⁷

The state is required to allow for subsistence for public employees engaged in Class A or Class B Travel and provided two travel reimbursement options:²⁸

- \$80 per diem; or
- If actual expenses exceed \$80, the state will pay a maximum of \$36 (\$6 for breakfast, \$11 for lunch, and \$19 for dinner) in addition to the actual expenses for lodging at a single-occupancy rate supported by paid bills.

Effect of Proposed Changes

The PCB provides that the travel expense reimbursement provisions under s. 112.061, F.S., do not apply to a state employee traveling on an EMAC mission when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

B. SECTION DIRECTORY:

Section 1: Amends s. 252.355, F.S., relating to the registry of persons with special needs, establishing a statewide registry managed by DEM rather than each local emergency management agency. Each local emergency management agency must have access to the registry for its jurisdiction.

Section 2: Amends s. 252.356, F.S., relating to emergency and disaster planning provisions to assist persons with disabilities or limitations, to provide that such persons must register with DEM rather than local emergency management agencies.

Section 3: Amends s. 252.921, relating to the short title of the Emergency Management Assistance Compact, to identify the statutory sections that govern the EMAC.

Section 4: Creates s. s. 252.9335, F.S., relating to expense reimbursement under the EMAC, to provide that expense reimbursement provisions under s. 112.061, F.S., do not apply to an employee traveling under the EMAC when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

Section 5: Amends s. 400.506(11), F.S., relating to the licensure of nurse registries; requirements; and penalties, to provide that nurse registries must assist persons who would need sheltering during evacuations in registering with DEM, rather than local emergency management agencies.

Section 6: Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

²⁷ Section 112.061(5)(a), F.S.

²⁸ Section 112.061(6), F.S.

Statewide Special Needs Registry

The costs associated with establishing a statewide special needs registry and developing a statewide marketing campaign will be covered by the Emergency Management Performance Grant.

EMAC Per Diem and Meal Reimbursement

States requesting the state's assistance in the form of staff and/or other resources in response to a manmade or natural disaster are obligated to reimburse the assisting state whether or not the requesting state receives federal funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES